



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: EG&G Pressure Science

File: B-241947

Date: January 24, 1991

Donna M. Ewing for the protester.

Gary Meyers for Jetseal, an interested party.

Robert L. Mercadante, Esq., Defense Logistics Agency, for the agency.

Mary G. Curcio, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. The General Accounting Office (GAO) will not review a protest that the procuring agency should issue a more restrictive solicitation since GAO's role is to ensure that the statutory requirements for full and open competition are met.
2. Protest based on alleged impropriety apparent from the face of the solicitation--agency's decision not to limit procurement to approved sources--is untimely when filed after the time set for bid opening.

DECISION

EG&G Pressure Science protests the award of a contract to Jetseal under invitation for bids (IFB) No. DLA500-90-B-A144, issued by the Defense Logistics Agency (DLA) for gaskets. EG&G asserts that DLA improperly awarded the contract to Jetseal on the basis of full and open competition instead of restricting the solicitation to approved sources.

We dismiss the protest.

The IFB was issued on August 14, 1990, and requested gaskets, National Stock Number (NSN) 5330-01-116-8118, manufactured in accordance with certain drawings listed in the IFB. The purchase item description indicated that the item has a critical end use application.

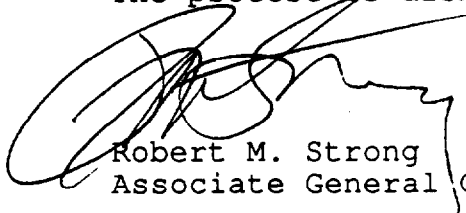
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On the bid opening date, October 9, four bidders responded to the solicitation, including EG&G and Jetseal, a small disadvantaged business (SDB) concern. After applying the SDB preference evaluation factor, as required by the solicitation, the contracting officer determined that Jetseal was the lowest responsive bidder and on October 22 awarded the contract to Jetseal. EG&G received notice of the award on October 25 and filed its protest with our Office on November 2. EG&G protests that the gasket is a critical aircraft component and thus that DLA should have restricted the procurement to approved sources. DLA responds that although the part is a critical aircraft component it is coded fully competitive under the Department of Defense Spare Parts Breakout Program.

Our role in resolving bid protests is to ensure that the statutory requirements for full and open competition have been met. Thus a protester's presumed interest as a beneficiary under a more restrictive solicitation is not protectable under our Bid Protest Regulations. Gould Elec., B-233947.2, Mar. 27, 1989, 89-1 CPD ¶ 310. Consequently, our Office will not consider EG&G's protest that DLA should have issued a solicitation that further restricted the pool of potential bidders by limiting it to approved sources.

In any case, to be timely, a protest based on an impropriety apparent from the face of an IFB must be filed prior to the time set for bid opening. 4 C.F.R. § 21.2(a)(1) (1990). Here, since there was no indication in the IFB that DLA intended to restrict the procurement to approved sources, EG&G was on notice from the IFB of DLA's intention. Consequently, since EG&G did not submit its protest until November 2, after the October 9 bid opening date, the protest is untimely. Oakland Scavenger Co., B-232958, Feb. 1, 1989, 89-1 CPD ¶ 101. In this regard, EG&G argues that it was not aware that non-approved sources would be considered for award because the purchase description in the IFB indicated that the gasket is a critical application item. We are aware of no requirement, however, that critical application items be restricted to approved sources and, in fact, as noted above, this gasket is coded fully competitive for procurement purposes. Consequently, EG&G's reliance on that description to conclude that the solicitation was restricted to approved sources is misplaced.

The protest is dismissed.



Robert M. Strong
Associate General Counsel